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July 27, 2004

VIA HAND DELIVERY

Honorable Deborah Taylor Tate, Chairman
c/o Sharla Dillon
Dockets Manager
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

Re: Petition of Cellco Partnership d/b/a Verizon Wireless for
Arbitration Under the Telecommunications Act;
Docket No. 03-00585

Dear Ms. Dillon.

Enclosed please find an original and fourteen copies of the following two (2) documents:
Sprint Spectrum L P Motion for Leave to File the Supplemental Consolidated Direct and Rebuttal
Testimony of Talmage O Cox, III, and (2) Supplemental Consolidated Direct and Rebuttal Testimony of
Talmage O Cox, III. Copies of the enclosed are being provided to the counsel of record

If you have any questions about the attached, please do not hesitate to give me a call.

Regards,

J. Gray Sasser
by JBP
J. Gray Sasser

JGS/ktr
enc.

Tennessee Regulatory Authority
July 27, 2004
Page 2

cc: William T. Ramsey
Stephen G. Kraskin
Henry Walker
Paul Walters, Jr.
Mark J. Ashby
Suzanne Toller
Beth K. Fujimoto
Edward Phillips
Charles W. McKee
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Dan Menser
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Leon M. Bloomfield

**BEFORE THE
TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

Petition of:

**Cellco Partnership d/b/a Verizon Wireless
For Arbitration Under the
Telecommunications Act of 1996**

**Consolidated Docket
No. 03-00585**

**SPRINT SPECTRUM L.P. MOTION FOR LEAVE
TO FILE THE SUPPLEMENTAL CONSOLIDATED
DIRECT AND REBUTTAL TESTIMONY
OF TALMAGE O. COX, III**

Petitioner Sprint Spectrum L.P. d/b/a Sprint PCS ("Sprint PCS") hereby seeks an Order from the Tennessee Regulatory Authority ("TRA"), allowing Sprint PCS to file the supplemental consolidated direct and rebuttal testimony of its expert cost witness, Mr. Talmage O. Cox, III. In support of this Motion, Sprint PCS states:

1. On March 19, 2004, pursuant to the Procedural Schedule herein, the CMRS Providers¹ submitted their First Set of Interrogatories to the Rural Independent Coalition.

2. On May 13, 2004, the CMRS Providers' filed a Motion to Compel, seeking an Order from the TRA, requiring the Rural Independent Coalition to answer certain of the CMRS Providers' Interrogatories. One of the issues involved in the Motion to Compel was the request by the CMRS Providers that each member of the Rural Independent Coalition produce (1) its most recent cost study, and (2) its two most recent audited financial statements.

¹ Petitioners Cellco Partnership d/b/a Verizon Wireless, AT&T Wireless PCS, LLC d/b/a AT&T Wireless, BellSouth Mobility LLC, BellSouth Personal Communications LLC and Chattanooga MSA Limited Partnership, collectively d/b/a Cingular Wireless, Sprint Spectrum L.P. d/b/a Sprint PCS and T-Mobile USA, Inc

6. As of June 3, 2004, the deadline for filing direct testimony in these consolidated cases, the CMRS Providers' Motion to Compel was still pending. In the timely filed direct testimony of Sprint PCS' fact and policy witness Billy H. Pruitt, Mr. Pruitt explained the following at p. 3, lines 6 – 18:

As a final introductory matter, it is the CMRS Providers' position that to the extent an ICO desires to be compensated for the exchange of traffic on anything other than a bill and keep basis, that ICO has the burden to propose incremental cost-based transport and termination rates and produce an appropriate forward looking economic cost study supporting such rates pursuant to 47 C.F.R. § 51.705 (a). The CMRS Providers' have affirmatively requested production of such information but, as of the filing of this testimony, no such information has been produced and remains one of the subject matters of the CMRS Providers' pending Motion to Compel. Although the general compensation principles are being addressed in my testimony and that of other CMRS Providers', Sprint PCS intends and hereby affirmatively reserves its right to submit testimony of expert cost witness Talmage O. Cox, III regarding the appropriateness of any rate and ICO cost study that may be produced pursuant to resolution of the CMRS Providers' Motion to Compel.

7. On June 17, 2004, the TRA entered its Order Granting Motion to Compel.

8. The deadline for filing rebuttal testimony was June 24.

9. The Rural Independent Coalition produced cost studies to counsel for Cingular on June 23, subject to restrictions that were not resolved to result in distribution to Sprint PCS until Ordered by the Pre-hearing Officer on July 5, 2004. Studies were provided to Sprint PCS between July 5 - 12, 2004. None of the studies was produced in time for Sprint PCS to review and address the applicability of such cost studies through the testimony of its expert cost witness, Mr. Talmage O. Cox, III by the original deadlines for filing either direct or rebuttal testimony.

10. The cost studies are relevant to this proceeding, because they help answer the question whether the transport and termination rates proposed by the Rural Independent Coalition members comply with the Telecommunications Act of 1996 and FCC Regulations.

11. Sprint PCS seeks leave to file the supplemental consolidated direct and rebuttal testimony of its expert cost witness Talmage O. Cox, III which, from the perspective of one that actually performs cost studies on behalf of a local exchange telecommunications carrier with rural properties, a) analyzes the cost studies produced by the Rural Independent Coalition members, b) discusses whether those studies comply with the costing and pricing rules of the Telecommunications Act of 1996 and FCC Regulations, c) speaks to the general reduction in switching costs over the past 10 years, and d) addresses various statements contained in Mr. Watkins rebuttal testimony and the Rural Coalition's supplemental responses regarding the applicability of the FCC's rules to rural carriers.

12. Attached hereto is the supplemental consolidated and rebuttal testimony of Mr. Cox that Sprint PCS seeks leave to file.

13. The issue of production of audited financial statements currently remains pending before the TRA on the Motion for Reconsideration filed by the Rural Independent Coalition. If the TRA denies the Motion for reconsideration filed by the Rural Independent Coalition and orders the production of the Coalition members' audited financial statements, Sprint PCS may need to seek leave to further supplement Mr. Cox's testimony.

THEREFORE, Sprint PCS seeks an Order from the TRA, accepting the attached supplemental consolidated direct and rebuttal testimony of Talmage O. Cox, III for consideration herein.

Respectfully submitted,

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DATED: July 27, 2004

CERTIFICATE OF SERVICE

I hereby certify that on July 27th, 2004, a true and correct copy of the foregoing has been served on the parties of record, via the method indicated:

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Joe Chiarelli
 Joseph M. Chiarelli *by JGS*

1 **Q. Please state your name, business address, employer and current position.**

2 A. My name is Talmage O. Cox, III. My business address is 6450 Sprint Parkway, Overland
3 Park, KS 66251. I am employed as Senior Manager – Network Cost for Sprint
4 Corporation.

5
6 **Q. Please summarize your qualifications and work experience.**

7 A. I received an Associate in Arts Degree from National Business College, Roanoke,
8 Virginia, in 1977 with a major in Business Administration -- Accounting. Subsequently,
9 I received a Bachelor of Science Degree from Tusculum College – Greeneville,
10 Tennessee, in 1986 with a major in Business Administration.

11
12 I have worked for Sprint since 1978 and have held several costing positions. I developed
13 cost studies and methodologies associated with various services and special projects for
14 state jurisdictional filings in Tennessee and Virginia. While working in this position, I
15 was the Telecordia Switching Cost Information System (SCIS) Administrator for ten
16 years responsible for coordinating model questions with Telecordia and assisting other
17 users when needed. In my current position, which I have held for the past seven years, I
18 have responsibility for developing the costing methods for switching and interoffice
19 transport that comply with Total Service Long Run Incremental Cost (“TSLRIC”) and
20 Total Element Long Run Incremental Cost (“TELRIC”) methodologies. In addition to
21 developing the costing methods associated with switching and transport, I have primary
22 responsibility for the production of Sprint’s switching and transport cost studies that are
23 filed in 18 individual states that comprise Sprint’s Local Telephone Division (“LTD”). I

1 also provide oral and written testimony in support of TSLRIC/TELRIC cost and
2 participate in regulatory cost dockets outside of the LTD territories.
3

4 **Q. Have you previously testified before state regulatory commissions?**

5 A. Yes. I have testified before the California, Florida, Kansas, and Texas regulatory
6 commissions regarding cost matters.
7

8 **Q. What is the purpose of your testimony?**

9 A. The purpose of my testimony is to address the appropriate pricing methodology for
10 establishing reciprocal compensation rates for the exchange of direct and indirect traffic
11 between Sprint PCS ("Sprint") and the Tennessee Rural Independent Coalition ("ICOs").
12 My testimony will also rebut assertions made by Mr. Watkins as well as respond to
13 statements contained in the ICOs' July 6, 2004 Response to the CMRS Providers'
14 Supplemental Interrogatory 2(a).
15

16 **Q. Is the pricing methodology for establishing reciprocal compensation rates for the**
17 **exchange of traffic between a CMRS Provider and ICO an issue for arbitration?**

18 A. Yes. Issue number 8 of the Joint Issues Matrix presents the issue for arbitration as stated
19 below.

20 **ISSUE 8: What is the appropriate pricing methodology for establishing a**
21 **reciprocal compensation rate for the exchange of indirect¹ traffic?**
22

23 **CMRS Position: The TRA should adopt bill-and-keep as the appropriate**
24 **reciprocal compensation method until the ICOs (1) produce appropriate cost**
25 **studies, and (2) rebut the presumption of roughly balanced traffic**

¹ My testimony regarding the appropriate pricing methodology for establishing reciprocal compensation rates is equally applicable to either the direct or indirect exchange of traffic

1 **Q. Did the ICOs produce cost studies during either the negotiation period or during the**
2 **time period that was scheduled for discovery?**

3 A. No. It is my understanding that the cost studies for the ICOs were only made available
4 after the CMRS Providers filed a Motion to Compel with the TRA to obtain such cost
5 studies. Cost studies for eight of the twenty-one ICOs were received during the time
6 period of July 5 - 12, 2004, after the rebuttal testimony due date. It is for this reason my
7 testimony is being filed after the date for filing rebuttal testimony.

8
9 **Q. Have you reviewed the proposed reciprocal compensation rates reflected in**
10 **Attachment E to the Direct Testimony of Steven E. Watkins?**

11 A. Yes. I have reviewed Mr. Watkins' Attachment E.
12

13 **Q. Why did the CMRS providers request production of ICO cost studies associated**
14 **with the ICOs' proposed reciprocal compensation rates?**

15 A. In order to determine if the correct pricing methodology has been utilized, an
16 examination of the cost study is required.
17

18 **Q. What is the appropriate pricing methodology to use to establish a reciprocal**
19 **compensation rate?**

20 A. The appropriate pricing methodology for the establishment of reciprocal compensation
21 rates between the CMRS carriers and each ICO is a forward looking economic cost based
22 methodology.
23

1 **Q. Are there specific FCC rules available to the TRA that support the development of**
2 **ICO specific reciprocal compensation rates for CMRS carriers based upon forward**
3 **looking economic cost?**

4 A. Yes. FCC regulations associated with the scope of transport and termination pricing rules
5 define at 47 CFR 51.701, (b) (2) the traffic that is subject to such rules to be:

6 Telecommunications traffic between a LEC and a CMRS provider that, at the
7 beginning of the call, originates and terminates within the same Major Trading
8 Area, as defined in 24.202(a) of this chapter.
9

10 47 CFR § 51.705 (a) & (a) (1) further states the following regarding the Incumbent
11 LEC's rates for transport and termination.

12 (a) An incumbent LEC's rates for transport and termination of
13 telecommunications traffic shall be established, at the election of the state
14 commission, on the basis of: (1) The forward-looking economic costs of such
15 offerings, using a cost study pursuant to §§51.505 and 51.511.
16

17 **Q. What do the FCC regulations specifically state about forward-looking economic cost**
18 **in 47 CFR § 51.505?**

19 A. The regulations specifically state that the forward looking economic cost should
20 encompass the following:

- 21 • Total Element Long-Run Incremental Cost (TELRIC) of an element is equal to
22 the forward looking cost over the long run.
- 23 • Most efficient telecommunications technology currently available and lowest cost
24 network configuration.
- 25 • Forward Looking Cost of Capital.
- 26 • Economic Depreciation Rates.
- 27 • Reasonable allocation of forward looking common cost.

1 Further, 47 CFR § 51.505 of the FCC Rules states the following factors may not be
2 considered,

- 3 • Embedded costs.
- 4 • Retail costs.
- 5 • Opportunity Costs.
- 6 • Revenues to subsidize other services.

7
8 The FCC makes a clear distinction with specific details that the reciprocal compensation
9 rates should be based on forward looking economic cost utilizing the TELRIC
10 methodology. They also indicate in detail what should be included and what should be
11 excluded as shown above.

12
13 **Q. Are the ICO produced cost studies in compliance with the FCC's regulations for**
14 **establishing reciprocal compensation rates to be charged between the ICOs and**
15 **CMRS Providers?**

16 **A.** No. I have reviewed eight cost studies produced in response to the CMRS Providers'
17 Motion to Compel. As a result of my review, I determined the cost studies are not
18 forward looking economic cost studies as required by FCC regulations.

19
20 **Q. Are you familiar with the type of cost studies that the ICOs have produced as**
21 **support for the proposed reciprocal compensation rates in Attachment E.**

22 **A.** Yes. All of the cost studies submitted are 47 CFR Part 36/69 cost studies. These cost
23 studies are utilized by incumbent local exchange carriers (ILECs) to separate book costs

1 ***“embedded cost”*** between the interstate and intrastate jurisdiction as required by the
2 FCC. The Part 69 study takes the interstate portion of the Part 36 results and separates it
3 further into the interstate access related elements. These cost studies do not meet the
4 FCC’s requirement that reciprocal compensation rates for the exchange of traffic between
5 ILEC’s and CMRS carriers be based on a forward looking economic cost study.

6
7 **Q. Do the ICO cost studies provide enough detail to show the development of the**
8 **proposed rates in Watkins’ Attachment E?**

9 **A.** No. The produced cost studies do not show the development of the proposed rates.
10 These cost studies just show the separation of booked ***“embedded”*** cost. There is no
11 calculation detail shown that takes the booked ***“embedded”*** cost and converts it to a cost
12 per minute of use by dividing it by demand. Even if it did, the use of Part 36/69
13 embedded cost studies could not and would not satisfy the FCC requirement to use a
14 forward looking economic cost methodology. Plain and simple, the admission of these
15 cost studies does not fulfill the ICOs obligation to justify the proposed reciprocal
16 compensation rates.

17
18 **Q. Are your conclusions regarding the ICOs’ cost studies confirmed by Mr. Watkins**
19 **Direct Testimony?**

20 **A.** Yes. Mr. Watkins states the following on Page 35 of his testimony;

21 “The ICOs propose to apply the same transport and local switching elements as
22 the National Exchange Carrier Association has calculated and filed with the FCC
23 for interstate access purposes.”
24

1 The studies that NECA files with the FCC on behalf of the ICO are Part 36/69 cost
2 studies based on booked “**embedded**” cost.

3
4 **Q. Should the TRA consider the cost studies submitted by the ICOs to be in compliance**
5 **with FCC regulations for the establishment of reciprocal compensation rates?**

6 **A.** No. The cost studies are clearly not in compliance with FCC regulations. The FCC made
7 it clear that the cost studies should not consider embedded cost.

8
9 **Q. Does Mr. Watkins state that the ICOs recognize that access rates may not be**
10 **applicable?**

11 **A.** Yes. To be more specific Mr. Watkins states the following on Page 35 of his Direct
12 Testimony;

13 “The ICOs recognize that access charges *per se* may not be applicable to an
14 agreement to exchange traffic pursuant to Section 251 (b)(5) of the Act.”
15

16 With this statement the ICOs recognize that access charge rates are not applicable for
17 reciprocal compensation. However, then Mr. Watkins goes on to say that this is different
18 when it comes to an indirect arrangement. A simple question needs to be asked. Is the
19 same call function performed by the ICO to terminate a CMRS Provider call whether the
20 CMRS Provider is directly or indirectly interconnected to the ICO network? The answer
21 is YES. Nowhere do the FCC’s regulations state or allow the compensation mechanism
22 to vary between embedded versus forward looking economic cost based on whether they
23 have a direct or indirect network connection for routing intraMTA calls. Common sense
24 would indicate that the compensation mechanism should be the same, being reciprocal

1 compensation, based on a cost based rate, via a forward looking economic cost study.
2 The reciprocal compensation rates per the FCC rules require the use of forward looking
3 economic cost versus the embedded costs utilized by the ICOs.
4

5 **Q. Is the ICOs' Response to the CMRS Providers' Supplemental Interrogatory 2a, i.e.,**
6 **that rural telephone companies are not required to conduct forward looking**
7 **economic cost studies correct?**

8 **A.** No. The ICO response to the CMRS Providers' Supplemental Interrogatory 2a
9 references a June 28, 2004 FCC Order saying that the rural telephone companies are not
10 required to utilize this methodology for the purposes of universal service fund (USF).
11 This Order does not pertain to reciprocal compensation and USF is a totally separate item
12 from reciprocal compensation. To go further, this Order mentions that the commission
13 adopted the Rural Task Force's 2001 recommendation for proposed modifications to the
14 embedded cost system for a five year period which expires in 2006. During this time
15 period the FCC will review what the appropriate mechanism would be including all
16 options, including the use of forward looking costs. Currently the FCC is exploring
17 moving the rural telcos to forward looking economic cost for purposes of USF, as they
18 already require for the purpose of reciprocal compensation.
19

20 **Q. Are there other FCC orders which are instructive to the TRA regarding the**
21 **establishment of ICO reciprocal compensation rates?**

22 **A.** Yes Section XI (A)(3)(c) of the FCC's Local Competition Order defines this standard.
23 Specifically, Paragraph 1054 of the Order states,

1 We conclude that the pricing standards established by section 252(d)(1) for
2 interconnection and unbundled elements, and by section 252(d)(2) for
3 transport and termination of traffic, are sufficiently similar to permit the use of
4 the same general methodologies for establishing rates under both statutory
5 provisions. Section 252(d)(2) states that reciprocal compensation rates for
6 transport and termination shall be based on "a reasonable approximation of the
7 additional costs of terminating such calls." Moreover, there is some
8 substitutability between the new entrant's use of unbundled network elements
9 for transporting traffic and its use of transport under section 252(d)(2). ...
10 Thus, we conclude that transport of traffic should be priced based on the same
11 cost-based standard, whether it is transport using unbundled elements or
12 transport of traffic that originated on a competing carrier's network. We,
13 therefore, find that the "additional cost" standard permits the use of the
14 forward-looking, economic cost-based pricing standard that we are
15 establishing for interconnection and unbundled elements.

16
17 Paragraph 1057 further states,

18 We find that, once a call has been delivered to the incumbent LEC end office
19 serving the called party, the "additional cost" to the LEC of terminating a call
20 that originates on a competing carrier's network primarily consists of the
21 traffic-sensitive component of local switching. The network elements
22 involved with the termination of traffic include the end-office switch and local
23 loop. The costs of local loops and line ports associated with local switches do
24 not vary in proportion to the number of calls terminated over these facilities.
25 We conclude that such non-traffic sensitive costs should not be considered
26 "additional costs" when a LEC terminates a call that originated on the network
27 of a competing carrier. For the purposes of setting rates under section
28 252(d)(2), only that portion of the forward-looking, economic cost of end-
29 office switching that is recovered on a usage-sensitive basis constitutes an
30 "additional cost" to be recovered through termination charges.

31
32 The FCC makes a clear distinction in this Order that the non-traffic sensitive cost
33 associated with local loops and switch line ports should not be included in the
34 development of termination charges. Only the traffic sensitive portion of the elements
35 (switching) should be included in the development of termination charges. The same
36 distinction is also made in the FCC rules at 47 CFR § 51.509 (a) Local Loops. (b) Local
37 Switching.

1 **Q. Is Mr. Watkins assertion on page 36 of his Direct Testimony that rates developed by**
2 **a forward looking cost methodology would be higher than the proposed rates**
3 **consistent with Sprint's experience?**

4 A Not at all. The cost of switching has steadily declined over the past ten years.
5

6 **Q. Are there other sources of information that would show the cost of digital switching**
7 **is declining?**

8 A Yes. The C.A. Turner Telephone Plant Index (TPI) is a study that develops index factors
9 for a telephone operating company to produce the reproduction cost of a company's
10 existing plant in service. To further clarify, the index factors from this study are utilized
11 to show the cost in today's dollars to reproduce the company's embedded plant in
12 service.
13

14 **Q. Are the TPI index values for digital switching declining?**

15 A Yes. The index factors for digital switching for the past five years have declined by 12%.
16 Over the past ten years they have declined 31%. This confirms that the forward looking
17 economic cost of switching would be less than embedded cost of switching. This also
18 confirms that if the ICOs had utilized an appropriate forward looking economic cost
19 methodology to produce their reciprocal compensation rates the results would be less
20 than the proposed rates by the ICOs which are admittedly based on an embedded cost
21 methodology.
22

1 **Q. Are there FCC orders that indicate that the forward looking switch costs are less**
2 **than embedded switch costs?**

3 A Yes. The FCC's Fourteenth Report and Order, CC Docket No. 96-45 released May 23,
4 2001 associated with the Multi-Association Group (MAG) Plan for Regulation of
5 Interstate Services of Non-Price Cap Incumbent local Exchange Carriers and
6 Interexchange Carriers makes the following comment in Footnote 412:

7 "It is generally accepted that forward looking switch costs are less than embedded
8 switch costs." Again, another item that clearly points out that reciprocal compensation
9 rates based on the required forward looking economic cost methodology will result in a
10 lower reciprocal compensation rate than if produced utilizing embedded cost.

11
12 **Q. Does the Sprint Local Telephone Division (LTD) utilize the TELRIC methodology**
13 **in the development of its reciprocal compensation rates?**

14 A. Yes. Sprint LTD utilizes the TELRIC methodology in the development of its reciprocal
15 compensation rates for use with other telecommunication carriers. The TELRIC
16 methodology that Sprint LTD utilizes fully agrees with the FCC rules as described above
17 and is applied when another telecommunications carriers interconnects on either a direct
18 or indirect basis.

19
20 **Q. How are Sprint's experiences with switch costs instructive to the TRA?**

21 A. The cost of switching has declined due to advancements in technology resulting in lower
22 switch vendor prices. With advancements in technology, such as increased use of remote
23 technology, ILEC's are able to decrease the number of host offices. Increases in demand

1 from growth and increased usage will also create better utilization of the switch resulting
2 in reduced switching cost per minute of use. A forward looking cost study will reflect all
3 of these cost reductions in the resulting reciprocal compensation rate. Sprint continually
4 looks for ways to provision the switch network in the most economical way possible.
5 Acknowledging these industry realities intuitively leads to lower forward looking
6 economic cost when compared to historic book cost of switches.
7

8 **Q. Please summarize your testimony.**

9 A. I have pointed out the FCC rules are clear that the appropriate pricing methodology for
10 establishing reciprocal compensation rates for the exchange of direct and indirect traffic
11 between Sprint and the ICOs is a forward looking economic cost based methodology
12 referred to as TELRIC. Also contained in my testimony are the highlights of the
13 methodology per the FCC's rules on how a proper TELRIC study should be performed.
14 My testimony also explains how a forward looking economic cost study associated with
15 switching will produce a lower cost than a study based on embedded cost. Based on my
16 review of the cost studies the ICOs submitted, the TRA should consider the cost studies
17 not in compliance with FCC regulations.
18

19 **Q. Does this conclude your testimony?**

20 A. Yes it does.
21